

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

The Mark W. Knight Revocable Trust,
Jennifer Knight, Trustee

v.

Civil No. 08-cv-354-JM

Metropolitan Life Insurance Company,
d/b/a/ MetLife Investors USA Insurance
Company, and The New England Agency
an Office of MetLife

O R D E R

A flurry of motions have resulted from the court's inadvertent premature ruling on plaintiff's motion to amend its complaint.

Background

Plaintiff filed a motion to amend complaint as a matter of right under Fed. R. Civ. P. 15(a) on September 23, 2008. (Doc. no. 10.) Although the docket correctly shows that defendant had until October 10, 2008 to file an objection, the motion was sent to me on September 24, 2008 for ruling with the notation, "No answer/responsive pleading has been filed yet by defendants." I did not look at the docket for dates and assumed that the time to object had passed. Sending me the motion was inadvertent and premature. Defendant had a right to respond. My ruling of

September 24, 2008 granting the motion to amend is withdrawn.

The parties may rely on their memoranda filed on the motion to reconsider (Doc. no. 16) and/or file memoranda within ten days on the motion to amend (Doc. no. 10).

The motion to remand (Doc. no. 13) is denied without prejudice as premature. The motion to strike (Doc. no. 17) the amended complaint (Doc. no. 11) is granted. The motion for reconsideration (Doc. no. 16) is granted, in that I will decide Doc. no. 10 on the merits after defendant has a chance to respond.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: October 3, 2008

cc: David S.V. Shirley
Edmund J. Waters, Jr.
James J. Ciapciak